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December 7, 2010

VIA ECF

Honorable James Orenstein
Eastern District of New York
United States District Court
225 Cadman Plaza East, Room 1227 South
Brooklyn Islip, New York 11201

Re: *Campbell v. Steven J. Baum, Esq., et al.*
Case No. 10 Civ. 3800 (E.D.N.Y.) (JBW) (JO)

Dear Magistrate Orenstein:

This office represents the defendants Steven J. Baum, Esq., Steven J. Baum, P.C., Stephanie M. Vampotic and Dawn Hanzlike-Hexemer, Esq. (the "Baum Defendants") in the above-referenced matter. We respectfully write this letter in response to Plaintiffs' counsel's letter motion dated December 7, 2010.

Brett A. Scher is the partner handling this matter and is out of the country with limited email and phone access. However, based on a review of the record, this opposition is being made to address the factual misrepresentations made by Plaintiffs in their letter application.

First, the November 23, 2010 conference call that Plaintiffs' counsel, Ms. Lask, refers to in her application was to deal solely with MERS' objections to Plaintiffs' requests to MERS regarding joinder. Indeed, the Baum Defendants had not even served their responses to Plaintiffs' joinder requests at the time of the conference call. Moreover, as indicated in the email sent by counsel for MERS on November 23, 2010 at 9:55 a.m. (5 minutes before the start of the call), Ms. Lask had not even confirmed if she was going to be available. See Exhibit "A." Mr. Scher did not receive any confirmation from Ms. Lask that the call was going forward nor that she wanted to discuss any issue with the Baum Defendants. Therefore, he was under the belief that the call was not going forward and only learned after the fact that Ms. Lask had called in. Ms. Lask made no effort to contact our office to have us join the call (because she knew that the call dealt with MERS).

Second, the Baum Defendants' responses to Plaintiffs' joinder requests were served on November 24, 2010. Plaintiffs did not raise any objection with regard to said responses until December 1, 2010, at which time Mr. Scher immediately advised Ms. Lask that she needed to

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contact him to discuss limiting her overbroad, palpably improper, and irrelevant narrowing her demands. See Exhibit "C" to Plaintiffs' Letter Application. Mr. Scher specifically stated that he would be out of the country starting on December 3rd but received no response from Ms. Lask. Instead, she waited until today to contact the Court directly.


Third, the Baum Defendants' responses to Plaintiffs' joinder requests were properly served to all non-objectionable demands. The documents sought by Plaintiffs in their demands demonstrate nothing more than a fishing expedition that have no bearing on the case.

The Baum Defendants have appropriately and timely responded to all demands, have been in compliance with the discovery schedule, and acted in good faith.

We have been advised that the Court is scheduling a conference call to discuss these issues. Accordingly, we would request that the Court also discuss an issue concerning depositions that Mr. Scher asked Ms. Lask to resolve but, to date, has failed to respond. See Exhibit "B."

Based on the foregoing, we respectfully request that the Court: (a) deny Plaintiffs' letter application; and (b) set the dates for the Baum Defendants' depositions in accordance with the proposed dates offered in the December 2nd email. Thank you for your time and consideration.

Respectfully submitted,
Kaufman Dolowich Voluck & Gonzo LLP



Yale Pollack

Attachments

cc: Susan Chana Lask, Esq. (*via ECF*)
Andrew B. Boese, Esq. (*via ECF*)

EXHIBIT A

From: Brochin, Robert M. [rbrochin@morganlewis.com]
Sent: Tuesday, November 23, 2010 9:55 AM
To: Susan
Cc: Brett A. Scher; Boese, Andrew B.
Subject: RE: 11-22-10 Campbell /Baum Joinder dscv

Susan - are we speaking at 10 today, and are you sending a number to call? Thank you.

Robert M. Brochin
Morgan, Lewis & Bockius LLP
5300 Wachovia Financial Center, 200 South Biscayne Boulevard | Miami, FL 33131-2339
Direct: 305.415.3456 | Main: 305.415.3000 | Fax: 305.415.3001 rbrochin@morganlewis.com |
www.morganlewis.com
Assistant: Donna M. Thomas | 305.415.3381 | dthomas@morganlewis.com

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-----Original Message-----

From: Susan [mailto:scl1111@hotmail.com]
Sent: Monday, November 22, 2010 9:51 PM

To: Brochin, Robert M.
Cc: 'Brett A. Scher'
Subject: 11-22-10 Campbell /Baum Joinder dscv

Robert, I was travelling and just arrived at my destination. That is why I wanted to communicate via e-mail.
If you want to talk Tuesday I can do it if you set up an 800 conference # to call into. Can we talk about 10 a.m. I am copying Brett for an answer as well. Thank you.

-----Original Message-----

From: Brochin, Robert M. [mailto:rbrochin@morganlewis.com]
Sent: Friday, November 19, 2010 5:54 PM
To: Susan Lask
Cc: Boese, Andrew B.; bscher@kdvglaw.com
Subject: RE: Campbell v. Baum

I was under the distinct impression that the court wished for us to meet and discuss discovery issues, and I am not sure I understand why you cannot speak with us on the phone regarding the plaintiffs' joinder requests.

At any rate, the issues or questions that we have regarding the requests are
(1) why are they so broad since they were supposed to be asking for documents that would allow you to decide if additional parties needed to be joined (as you had represented to court that you were seeking documents to allow you to determine if additional parties needed to be added to the lawsuit by December 8th); (2) why did you ask for us to provide answers to questions when the shortened (one week) discovery requests were specifically limited to providing documents only; (3) what is the difference between providing information regarding "salaried" officers and directors as compared to the officers and directors, and how does such difference relate to a decision to join additional parties; (4) why is it appropriate for you to ask MERS and MERSCORP to "identify any potential parties to the action;"
(5) can you narrow your requests for documents as they not only call for information not related to joinder of defendants but they ask for an extraordinary amount of paper that would be burdensome to locate and produce; and (6) generally what documents do you need from MERS and MERSCORP that would allow you to decide which, if any, parties to join in the lawsuit and why? We also would like to review all thirteen requests with you to understand how they relate to the joinder issue because, for the most part, they do not appear on their face to be limited to seeking information relating to the joinder of other defendants.

Thank you.

Robert M. Brochin
Morgan, Lewis & Bockius LLP
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Direct: 305.415.3456 | Main: 305.415.3000 | Fax: 305.415.3001 rbrochin@morganlewis.com |
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-----Original Message-----

From: Susan Lask [mailto:susanlesq@verizon.net]
Sent: Friday, November 19, 2010 4:06 PM
To: Brochin, Robert M.
Subject: RE: Campbell v. Baum

Hi, i,m travelling. Could u please send me a list of your questions by monday or even the

-----Original Message-----

From: Brochin, Robert M. <rbrochin@morganlewis.com>
Sent: Friday, November 19, 2010 3:47 PM
To: susanlesq@verizon.net <susanlesq@verizon.net>
Cc: bscher@kdvglaw.com <bscher@kdvglaw.com>; Boese, Andrew B. <aboese@morganlewis.com>
Subject: Campbell v. Baum

Ms. Lask --

We received the "Plaintiffs Discovery Regarding Joinder" that was dated Nov. 17th. We will serve a response on Nov. 24th, but the thirteen requests for documents and questions directed at MERSCORP and MERS are difficult to understand, and in some instances wholly inappropriate for the purpose for which they intended to be served, i.e., to allow plaintiffs to obtain within one-week of the request documents regarding the joinder of additional defendants.

Thus, it would be helpful if we could meet and confer with you on your requests and questions to see if we can both understand the plaintiffs' requests and narrow the scope of what plaintiffs are seeking for the joinder of additional defendants. Can we meet by phone on Tuesday morning, Nov. 23rd at 9:30 a.m.? If yes, please advise where we can call you. In the meantime, we will gather documents that we believe are be responsive to the issue for which documents are to be produced regarding the joinder of parties.

Thank you.

Robert M. Brochin
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EXHIBIT B

From: Brett A. Scher [bscher@kdvglaw.com]
Sent: Thursday, December 02, 2010 6:47 PM
To: 'SCLESQ'; Boese, Andrew B.; nmani@morganlewis.com
Cc: 'Brochin, Robert M.'
Subject: RE: Campbell/Baum

Susan,

I received no response from you regarding either of my two emails yesterday. It is 7:00pm and as I noted in each of my prior emails, I will be out of the country starting tomorrow and will be gone until December 9, 2010. Please contact me at that time to discuss the depositions as well as your issues concerning the impleader discovery responses.

Brett

Brett Scher
Partner


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From: Brett A. Scher [mailto:bscher@kdvglaw.com]
Sent: Wednesday, December 01, 2010 2:00 PM
To: 'SCLESQ'; Boese, Andrew B.; nmani@morganlewis.com
Cc: 'Brochin, Robert M.'
Subject: Campbell/Baum

Susan,

With respect to my clients' and your clients' depositions, we need to discuss dates and location. Pursuant to the notices served we have the following depositions scheduled:

Plaintiff Campbell - 12/29/10
Plaintiff Miller - 12/30/10
Steven J. Baum - 12/27/10
Dawn Hanzlik-Hexemer - 12/28/10

I am free during the Christmas recess week so have no problems proceeding with the depositions of your clients on 12/29 and 12/30 (of course, if your clients are unavailable that week I understand and will work with you on new dates). However, as I indicated to you when we were attempting to work out the initial discovery plan, my clients are not available that week. Mr. Baum is available on January 3rd, 4th or 10th, as alternatives. With respect to Dawn Hanzlik, she now resides in North Carolina and has a baby with special needs. Accordingly, the deposition needs to be conducted in North Carolina. In accordance with the EDNY's local rules, I would propose a telephonic deposition of Ms. Hanzlik.

Please get back to me as soon as possible so we can set up firm dates and locations. As I indicated to you earlier today, I am out of the country from December 3rd through the 9th.


Brett

Brett Scher
Partner

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